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8	UNITED STATES DISTRICT COURT		
9	EASTERN DISTRICT OF CALIFORNIA		
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11	RUDOLPH ELLIS,	Case No. 1:21-cv-01539-BAM (PC)	
12	Plaintiff,	ORDER GRANTING IN PART PLAINTIFF'S MOTION FOR EXTENSION OF TIME TO	
13	v.	FILE AMENDED COMPLAINT OR NOTIFY COURT OF WILLINGNESS TO PROCEED	
14	SANTORO, et al.,	ON COGNIZABLE CLAIMS	
15	Defendants.	(ECF No. 19)	
16		THIRTY (30) DAY DEADLINE	
17			
18	Plaintiff Rudolph Ellis ("Plaintiff") is a state prisoner proceeding pro se and in forma		
19	pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.		
20	On October 9, 2025, the Court issued a screening order finding that Plaintiff's first		
21	amended complaint states a cognizable claim against Defendants B. Gutierrez, A. Urquieto, and J.		
22	Rivera for excessive force for being pepper sprayed and against A. Flores for kicking Plaintiff in		
23	violation of the Eighth Amendment, but failed to state any other cognizable claims for relief.		
24	(ECF No. 18.) Plaintiff was directed to file a second amended complaint or notify the Court in		
25	writing that he is willing to proceed only on the claims found cognizable in the first amended		
26	complaint, within thirty days. (<i>Id.</i>)		
27	Currently before the Court is Plaintiff's motion for a sixty-day extension of time to		
28	respond to the Court's order, filed November	5, 2025. (ECF No. 19.) Plaintiff states that he did	

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not receive the Court's order until October 22, 2025, and he is currently on lockdown and has no		
library access to conduct legal research or obtain copies. Plaintiff has sent in a request to obtain		
law library access but has yet to receive a response to receive access to make the November 7,		
2025 deadline. Plaintiff requests a 60-day extension of time to conduct research, receive		
assistance from jailhouse lawyers, obtain copies, be granted adequate law library access, and		
respond to the Court's order. Plaintiff is required to show proof of law library time needed. The		
60-day extension would give Plaintiff time to receive a document from the Court to show proof,		
obtain access as a priority law library user and prevent any delay in case of possible lockdowns.		
Plaintiff will attempt to complete the order prior to the 60-day request. (<i>Id.</i>)		

Having considered the request, the Court finds good cause to grant, in part, the requested extension of time. Fed. R. Civ. P. 6(b). However, the Court finds that an extension of thirty days, rather than sixty, is reasonable under the circumstances.

Plaintiff is reminded that his first amended complaint should be brief, Fed. R. Civ. P. 8(a), but it must state what each named defendant did that led to the deprivation of Plaintiff's constitutional rights, *Ashcroft v. Iqbal*, 556 U.S. 662, 678–79 (2009). Although accepted as true, the "[f]actual allegations must be [sufficient] to raise a right to relief above the speculative level" *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (citations omitted).

Additionally, Plaintiff may not change the nature of this suit by adding new, unrelated claims in his first amended complaint. *George v. Smith*, 507 F.3d 605, 607 (7th Cir. 2007) (no "buckshot" complaints).

Finally, Plaintiff is advised that an amended complaint supersedes the original complaint. *Lacey v. Maricopa Cty.*, 693 F.3d 896, 927 (9th Cir. 2012). Therefore, Plaintiff's amended complaint must be "complete in itself without reference to the prior or superseded pleading." Local Rule 220.

Accordingly, it is HEREBY ORDERED that:

- 1. Plaintiff's motion for extension of time, (ECF No. 12), is GRANTED IN PART;
- 2. The Clerk's Office shall send Plaintiff a complaint form;

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a. A second amended complaint curing the deficiencies identified by the Court's October 9, 2025, screening order; or b. Notify the Court in writing that he does not wish to file a second amended complaint and he is willing to proceed only on his claims against Defendants E Gutierrez, A. Urquieto, and J. Rivera for excessive force for being pepper spra and against A. Flores for kicking Plaintiff in violation of the Eighth Amendme and		Case 1:21-cv-01539-BAM Document 20 Filed 11/06/25 Page 3 of 3
October 9, 2025, screening order; or b. Notify the Court in writing that he does not wish to file a second amended complaint and he is willing to proceed only on his claims against Defendants E Gutierrez, A. Urquieto, and J. Rivera for excessive force for being pepper spra and against A. Flores for kicking Plaintiff in violation of the Eighth Amendme and 4. If Plaintiff fails to comply with this order, this action will be dismissed for failure state a claim, failure to prosecute, and failure to obey a court order. IT IS SO ORDERED. Dated: November 6, 2025 Isl Balana A. Mabilife UNITED STATES MAGISTRATE JUDGE UNITED STATES MAGISTRATE JUDGE UNITED STATES MAGISTRATE JUDGE 20 21 22 23 24 25 26	1	3. Within thirty (30) days from the date of service of this order, Plaintiff shall file either:
b. Notify the Court in writing that he does not wish to file a second amended complaint and he is willing to proceed only on his claims against Defendants If Gutierrez, A. Urquieto, and J. Rivera for excessive force for being pepper spra and against A. Flores for kicking Plaintiff in violation of the Eighth Amendme and 4. If Plaintiff fails to comply with this order, this action will be dismissed for failure state a claim, failure to prosecute, and failure to obey a court order. IT IS SO ORDERED. Dated: November 6, 2025 // Is/ Barbara A. McAuliff UNITED STATES MAGISTRATE JUDGE UNITED STATES MAGISTRATE JUDGE UNITED STATES MAGISTRATE JUDGE 20 21 22 23 24 25 26	2	a. A second amended complaint curing the deficiencies identified by the Court's
complaint and he is willing to proceed only on his claims against Defendants I Gutierrez, A. Urquieto, and J. Rivera for excessive force for being pepper spra and against A. Flores for kicking Plaintiff in violation of the Eighth Amendme and 4. If Plaintiff fails to comply with this order, this action will be dismissed for failure state a claim, failure to prosecute, and failure to obey a court order. IT IS SO ORDERED. Dated: November 6, 2025	3	October 9, 2025, screening order; or
Gutierrez, A. Urquieto, and J. Rivera for excessive force for being pepper spra and against A. Flores for kicking Plaintiff in violation of the Eighth Amendment and 4. If Plaintiff fails to comply with this order, this action will be dismissed for failure state a claim, failure to prosecute, and failure to obey a court order. IT IS SO ORDERED. Dated: November 6, 2025 /s/Balana A. McAuliffe UNITED STATES MAGISTRATE JUDGE UNITED STATES MAGISTRATE JUDGE 14 UNITED STATES MAGISTRATE JUDGE 15 A state a claim of the Eighth Amendment and and against A. It Plaintiff fails to comply with this order, this action will be dismissed for failure to obey a court order. IT IS SO ORDERED. Dated: November 6, 2025 /s/Balana A. McAuliffe UNITED STATES MAGISTRATE JUDGE 15 Dated: 15 Dated: 15 Dated: 16 Dated: 17 Dated: 17 Dated: 18 Dated: 18 Dated: 19 D	4	b. Notify the Court in writing that he does not wish to file a second amended
and against A. Flores for kicking Plaintiff in violation of the Eighth Amendment and 4. If Plaintiff fails to comply with this order, this action will be dismissed for failure state a claim, failure to prosecute, and failure to obey a court order. IT IS SO ORDERED. Dated: November 6, 2025 /s/ Barbara A. McAuliffe UNITED STATES MAGISTRATE JUDGE UNITED STATES MAGISTRATE JUDGE 13 14 15 16 17 18 19 20 21 22 23 24 25 26	5	complaint and he is willing to proceed only on his claims against Defendants B.
and 4. If Plaintiff fails to comply with this order, this action will be dismissed for failure state a claim, failure to prosecute, and failure to obey a court order. IT IS SO ORDERED. Dated: November 6, 2025 /s/ Barbara A. McAuliffe UNITED STATES MAGISTRATE JUDGE UNITED STATES MAGISTRATE JUDGE UNITED STATES MAGISTRATE JUDGE 20 21 22 23 24 25 26	6	Gutierrez, A. Urquieto, and J. Rivera for excessive force for being pepper sprayed
4. If Plaintiff fails to comply with this order, this action will be dismissed for failure state a claim, failure to prosecute, and failure to obey a court order. IT IS SO ORDERED. Dated: November 6, 2025 /s/ Barbara A. McAuliffe UNITED STATES MAGISTRATE JUDGE UNITED STATES MAGISTRATE JUDGE 18 19 20 21 22 23 24 25 26	7	and against A. Flores for kicking Plaintiff in violation of the Eighth Amendment;
10 state a claim, failure to prosecute, and failure to obey a court order. 11 IT IS SO ORDERED. 13 Dated: November 6, 2025 /s/ Barbara A. McAuliffe UNITED STATES MAGISTRATE JUDGE 15 16 17 18 19 20 21 22 23 24 25 26	8	and
11 12 17 18 17 18 19 20 21 22 23 24 25 26 18 17 18 17 18 19 19 10 10 10 10 10 10	9	4. <u>If Plaintiff fails to comply with this order, this action will be dismissed for failure to</u>
12 Dated: November 6, 2025 /s/ Bashara A. McAuliffe 14 UNITED STATES MAGISTRATE JUDGE 15 16 17 18 19 20 21 22 23 24 25 26	10	state a claim, failure to prosecute, and failure to obey a court order.
Dated: November 6, 2025 Is Barbara A. McAuliffe	11	
UNITED STATES MAGISTRATE JUDGE 15 16 17 18 19 20 21 22 23 24 25 26	12	II IS SO ORDERED.
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